

Salisbury, North Carolina
August 4, 2015

REGULAR MEETING

PRESENT: Mayor Paul B. Woodson, Jr., Presiding; Mayor Pro Tem Maggie A. Blackwell; Council Members Karen Kirks Alexander, William Brian Miller, and William (Pete) Kennedy; City Manager W. Lane Bailey; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None.

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The invocation was given by Councilmember Kennedy. The meeting was called to order by Mayor Woodson at 4:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Woodson led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

CHANGES TO THE AGENDA

Mayor Woodson noted the following changes to the Agenda:

Add- Council to receive a presentation regarding a proposed amendment to the City Code regarding neglected and abandoned properties and consider setting a public hearing for August 18, 2015 to receive public comments.

PROCLAMATION

Mayor Woodson proclaimed the following observance:

NATIONAL NIGHT OUT

August 4, 2015

RECOGNITION – OVERTON ELEMENTARY SCHOOL PRINCIPAL GERITA WALDEN

Mayor Woodson welcomed Overton Elementary School Principal GeRita Walden to the City.

Ms. Walden thanked Council for the warm welcome. She noted she is pleased to be part of a strong, supportive community. She explained she came to Overton Elementary as the Assistant Principal in the fall of 2014, and was promoted to Principal in the spring. She added Overton is experiencing a transformation of culture and has much to be excited about. She invited Council to visit the school and be a part of the transformation.

Mayor Woodson noted Council is committed to the Rowan-Salisbury School System and its students.

CONSENT AGENDA(a) Approval of Minutes

Approve Minutes of the Regular Meeting of July 21, 2015.

(b) Voluntary Annexation

Receive a request for the voluntary annexation of 17.5 acres located off Faith Road identified as Tax Map 403H Parcels 001, 002, 003, and part of 403 001, and adopt a **RESOLUTION** instructing the City Clerk to investigate the sufficiency of the request.

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER GENERAL STATUTE 160A-58.1, FOR VOLUNTARY ANNEXATION OF 17.5 ACRES (THE GABLES AT KEPLEY FARMS PHASES 3 AND 4) LOCATED OFF FAITH ROAD AND IDENTIFIED ON TAX MAP 403H PARCELS 001, 002, 003 AND TAX MAP 403 PARCEL 001.

(The above Resolution is recorded in full in Resolution Book No. 15 at Page No. 13, and is known as Resolution 2015-12)

(c) Final Subdivision Plat Approval

Approve final subdivision plat S-01-15 for the Gables at Kepley Farms, Phase 4, subject to receipt of guarantee of improvements in accordance with section 5.03.2 of the 2007 Subdivision Ordinance and completion of the voluntary annexation process.

Thereupon, Ms. Alexander made a **motion** to adopt the Consent Agenda as presented. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

SPECIAL USE PERMIT – 114 OAKWOOD AVENUE

SUP-02-2015 – 114 Oakwood Avenue

(a) Swearing In

Mayor Woodson indicated anyone who wished to speak for or against this item must be sworn in, and he asked those who would like to speak to come forward. He administered the oath to the following:

Mr. David Phillips
Ms. Robin Kluttz-Ellison

(b) Ex Parte Disclosure

Mayor Woodson asked Council members if anyone had knowledge of this case they wished to disclose. There were no ex parte disclosures.

Zoning Administrator David Phillips indicated the Special Use Permit (SUP) is for property located at 114 Oakwood Avenue to permit the operation of a child daycare center:

- Child daycare center: an individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; designed and approved to accommodate three or more preschool age or nine or more school-age children at a time; not an accessory to residential use

Mr. Phillips explained the area is currently zoned Residential Mixed-Use (RMX) and requires an SUP to operate a child daycare center. He pointed out the building was constructed as a daycare center under the previous code. He added it has been more than 180 days since the last tenant moved out of the property causing it to lose its grandfather clause.

Mr. Phillips reviewed the production of evidence:

- The burden is on the applicant to present sufficient evidence to allow the board to make findings that the required standards will be met
- The burden is on an opponent to present sufficient evidence that a standard will not be met
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied

- If there is conflicting evidence, the board decides what the facts are and decides accordingly

Mr. Phillips presented the standards for decision required for the SUP:

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Phillips reviewed an additional use standard for child daycare centers in RMX, Neighborhood Mixed-Use (NMX), Light Industrial (LI), Heavy Industrial (HI), and Institutional Campus (IC) zonings:

1. These facilities shall be developed and maintained in accordance with all current and applicable provisions of the North Carolina Department of Health and Human Services

Mr. Phillips reviewed the location of the property and neighboring residential and commercial development. He displayed photographs of the property and the surrounding area. He pointed out neighboring vacant parcels of land that were developed into single-family residences.

Mr. Phillips stated the Planning Board reviewed the request and voted unanimously to recommend approval.

Mayor Woodson asked how long a daycare center operated out of the location. Mr. Phillips stated the location has been a daycare center since 1988. Mayor Woodson asked if anyone spoke in opposition of the SUP at the Planning Board meeting. Mr. Phillips commented no one spoke in opposition of the SUP, but there was discussion regarding the property value standard. He explained when the Planning Board realized vacant properties in the area are being developed, it felt the standard requiring the SUP to not be injurious to surrounding properties had been met.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-02-2015.

Ms. Robin Kluttz-Ellison, 1390 Goodson Road, explained she purchased the property in 1999 and operated a child daycare center until 2010. She stated she is planning to lease or sell the property and an SUP would increase its marketability. She explained three parties are interested in the property as a child daycare center. She noted a child daycare center operated at the location for 24 years, and the property meets all standards set by the Division of Child Development. She pointed out the area surrounding the facility continues to grow, and she asked Council to approve the SUP request.

There being no one else present to give testimony, Mayor Woodson closed the floor.

Mayor Woodson pointed out the facility has been a child daycare center for 24 years.

Councilmember Miller asked if an SUP transfers with ownership of the property. Mr. Phillips noted the SUP runs with the property. Mr. Miller asked if the SUP could be revoked if issues arose. Mr. Phillips stated the SUP can be revoked.

Thereupon, Mr. Miller made a **motion** for the following Findings of Fact:

A. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:

- The site characteristics currently fit within the surrounding area
- The property has been used as a child daycare facility for 24 years until its recent closure
- The use of the property meets the intent of the Eastern Gateway Area Plan.

B. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:

- The use will be located within an existing commercial building that is visually and functionally compatible to the surrounding area
- The building was designed and constructed in 1988 for a child daycare facility

C. The public health, safety, and welfare will be assured, and the purposed development will not substantially injure the value of adjoining property and associated uses if located where proposed as evidenced by the following testimony:

- The use will be required to meet all standards established by the Division of Child Development and Early Education
- No evidence has been submitted by a qualified, licensed property appraiser indicating that this use has been or will be injurious to surrounding property values
- Residential development has continued to occur on surrounding properties

D. A child daycare center in the RMX district shall be developed and maintained in accordance with all current and applicable provisions of the North Carolina Department of Health and Human Services

Mr. Miller stated the suggested findings support the general requirements as required by the Salisbury Land Development Ordinance. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Meses. Alexander and Blackwell voted AYE. (5-0)

Thereupon, Mr. Miller made a **motion** to issue a Special Use Permit SUP-02-2015 allowing the operation of a child daycare center located at 114 Oakwood Avenue based on all general standards of the Salisbury Land Development Ordinance having been met. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Meses. Alexander and Blackwell voted AYE. (5-0)

Mayor Pro Tem Blackwell wished Ms. Kluttz-Ellison the best.

OLD CONCORD ROAD – CURB GUTTER AND SIDEWALK

City Engineer Wendy Brindle stated the North Carolina Board of Transportation approved \$140,000 in small construction funds for installation of approximately 1,000 feet of curb, gutter, and sidewalk on one side of Old Concord Road. She thanked North Carolina Board of Transportation Member Jake Alexander for his work on the project. She explained the curb, gutter, and sidewalk will be installed from existing sidewalk on Old Concord Road and will continue to Ryan Street. She added the additional sidewalk will increase neighborhood connectivity and provide a complete connection to town and to the Walmart area.

Ms. Brindle explained staff believes there will be sufficient funds to install sidewalk under the I-85 Bridge. She noted staff recommends Council authorize the City Manager and City Clerk to execute an agreement with the North Carolina Department of Transportation (NCDOT). She added the City will be responsible for the design, construction, and maintenance of the project which should be completed in the summer of 2016.

Mayor Woodson asked about the total cost of the project. Ms. Brindle indicated NCDOT authorized \$140,000 for the project. She noted if the total cost of the project exceeds \$140,000 the City will be responsible for the balance. She added staff believes \$140,000 will cover the initial project and possibly sidewalk under the I-85 Bridge.

Councilmember Miller asked if Council will be notified once staff receives the total cost of the project. Ms. Brindle stated staff could come back to Council with the total costs of the project, and she noted if the total cost exceeds \$140,000 staff can present additional options to Council. She added staff intends to install as much curb, gutter and sidewalk as it can with the approved funds.

Mayor Pro Tem Blackwell thanked Ms. Brindle and staff for their work on the project.

Mr. Miller asked if staff is waiting until next summer so the project will be included in the next budget year. Ms. Brindle stated the wait is due to the current work load.

Thereupon, Ms. Blackwell made a **motion** to authorize the City Manager and City Clerk to execute an agreement with the North Carolina Department of Transportation regarding construction of approximately 1,000 feet of curb, gutter, and sidewalk on Old Concord Road. Ms. Alexander seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mes. Alexander and Blackwell voted AYE. (5-0)

OLD CONCORD ROAD – LIGHTING SYSTEM

City Engineer Wendy Brindle noted the North Carolina Board of Transportation approved a request for a lighting system beneath the I-85 Bridge on Old Concord Road along with the previous request for curb, gutter, and sidewalk. She displayed a photograph, and she pointed out it is extremely dark under the bridge.

Ms. Brindle explained the lighting system will be similar to the one under the I-85 Bridge along East Innes Street. She added the North Carolina Department of Transportation (NCDOT) authorized \$40,000 for the project, and it will be responsible for its design and implementation.

She stated the City will be responsible for the monthly power bill, and it will take over the system once installation is complete. She pointed out Duke Energy estimates the monthly power costs to be approximately \$50 which can be included in the street lighting budget.

Councilmember Miller asked about the life cycle of the lighting system. Ms. Brindle noted NCDOT has not determined the exact lighting system it will use. She added staff does not anticipate any problems with the lighting system for at least five years. She added staff will discuss the life cycle of the lighting system with NCDOT once the design is determined.

Thereupon, Ms. Alexander made a **motion** to authorize the City Manager and City Clerk to execute an agreement with the North Carolina Department of Transportation regarding a lighting system beneath the I-85 Bridge on Old Concord Road. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Meses. Alexander and Blackwell voted AYE. (5-0)

PROPOSED AMENDMENT TO CITY CODE REGARDING NEGLECTED AND ABANDONED PROPERTIES

Housing Advocacy Commission (HAC) Chair Barbara Perry; HAC members Mr. Nathan Chambers, Mr. George Wilson; and Code Services Division Interim Manager Michael Hanna addressed Council regarding a proposed amendment to the City Code regarding neglected and abandoned properties. Mr. Hanna noted HAC members worked on the proposed amendments for over a year.

Ms. Perry noted the proposed amendments include updates to sections of the City Code that have not been updated since 1977. She added it is the biggest request the HAC has brought to Council, and it will change the entire Ordinance.

Ms. Perry stated the HAC met with neighborhood leaders and groups during workshops and forums, and the number one request from the community was safe housing. She pointed out most neighborhoods in the City are affected by neglected and abandoned houses. She displayed photographs of abandoned houses in the City, and she noted everyone should be able to live in a safe neighborhood.

Ms. Perry noted HAC subcommittee workshops had 100 percent attendance. She added the final version of the proposed amendment was reviewed by the University of North Carolina (UNC) School of Government, who indicated if the proposed amendment is adopted by Council, it would be used as a model for other communities. She noted HAC members contacted municipalities from throughout the State that have similar ordinances to determine best practice procedures.

Ms. Perry, Mr. Chambers, and Mr. Wilson reviewed the proposed amendment regarding neglected and abandoned properties. Ms. Perry stated the proposed amendment passed unanimously in both the HAC and the subcommittee.

Ms. Perry reviewed the different types of properties:

- Vacant – maintained and does not appear vacant
- Neglected property – looks bad
- Abandoned property – housing code violations exist
- Condemnation and imminent danger – dangerous and a life safety issue

Mayor Pro Tem Blackwell asked HAC members in the audience to stand and be recognized. She commended the HAC for its work to improve housing conditions in the City. She added the UNC School of Government deem the recommendations to be role model quality and determined it would recommend them to other cities if Council adopts the proposed Ordinance.

Mayor Woodson noted the proposed amendments are needed, and he pointed out enforcing them will be a big task. He thanked HAC members for their work on the proposed amendments and all they do for the City.

Thereupon, Ms. Blackwell made a **motion** to set a public hearing for August 18, 2015 to receive public comments regarding proposed amendments to the City Code. Ms. Alexander seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Meses. Alexander and Blackwell voted AYE. (5-0)

CITY MANAGER'S COMMENTS

(a) Offer to Purchase Property

City Manager Lane Bailey noted the City received an offer to purchase the Zimmerman building located at 110 North Main Street for \$200,000. He indicated a previous appraisal valued the property at \$290,000. He explained after the offer was received staff had the building reappraised by Mr. Scott Robinson who determined its value at \$240,000.

Mr. Bailey stated if Council is interested in pursuing the offer an upset bid will be required. He explained Council would accept the offer and then upset bids would be accepted for 10 days.

Mayor Woodson stated it would be good to fill a vacant building with an organization that plans to stay in the City. He added when the City owns a building it must lease and maintain the building. He noted he supports selling the building.

Mayor Pro Tem Blackwell agreed with Mayor Woodson.

Councilmember Miller asked if more than one party had expressed interest in the property. Mr. Bailey indicated another individual has expressed interest in the building. He noted he passed along the appraisal but has not received a response.

Mr. Miller asked how the City would advertise the building for sale. He pointed out the offer to purchase the property was unsolicited. Mr. Bailey noted Downtown Salisbury, Inc. (DSI) may have the property listed on its publications. He pointed out the City is not actively trying to sell the property. He noted the offer came in and if Council decides to proceed with the upset bid, the City must run a legal ad listing the price and how much it would cost to upset the bid.

City Attorney Rivers Lawther explained Council would have to accept the offer before it can advertise for an upset bid. He added an upset bid is advertised in the newspaper for 10 days. He noted if no one increases the initial offer then Council could sell the property to the initial bidder.

Mayor Woodson asked if the property will be subject to property tax if it is sold to the original party. He added he realizes the bidder is a nonprofit, but he questioned if they would be required to pay property tax on the property. Mr. Lawther noted some nonprofits pay property tax and some do not. He added the City does not make that determination, it would be decided by the Rowan County Tax Assessor. Mr. Bailey stated if the building is used for the purpose of the nonprofit, it would be tax exempt. Councilmember Alexander questioned if Council should have that information before it makes a decision or possibly make the decision subject to the information. Mayor Woodson added if the City receives property tax it would be an added benefit.

Mr. Kennedy stated he realizes a nonprofit made the initial bid to purchase the property. He commented a business could purchase the property during the upset bid and operate its business out of the location. He added he does not want citizens to think the City allowed a business to purchase the property for \$40,000 less than it is worth. He added he thinks Council should accept the offer and counter with \$240,000. He emphasized the building is worth \$240,000. He noted Council is dealing with a nonprofit, but anyone can purchase the property during the upset bidding process for less than its appraised value.

Mr. Miller clarified Council should counter the offer it received at the appraised value, and if an agreement is reached regarding the price, the property would then go to upset bid. He stated Council can accept the initial offer, negotiate to get an acceptable offer, or announce the building is for sale and entertain any offer. He stated Council runs the risk of receiving less than the initial bid. Mr. Bailey noted Council does not have to accept the offer, but once the upset bid process is started it must move forward.

Mayor Woodson stated Council has an offer for \$200,000 and the property appraises for \$240,000. He suggested putting the property up for upset bids. Mr. Miller pointed out Council can only receive upset bids if it accepts the initial offer. Mr. Kennedy suggested making a counter offer. Mr. Bailey clarified Council does not have to accept the offer. He added if Council wants to set the minimum consideration at \$240,000 it can. Mr. Kennedy stated Council should not accept less than \$240,000 for the property.

Mr. Kennedy stated the City owns many buildings, and it is time to sell some of them. Mayor Woodson agreed with Mr. Kennedy, and he pointed out if Council sells the building it will put more people downtown and the building will be maintained with or without additional property tax. Mr. Kennedy added he is concerned that if Council accepts the initial bid, someone other than the nonprofit may purchase the property for less than its appraised value giving the bidder equity in the property.

Mayor Woodson pointed out if another entity bids on the property the initial bidder can rebid on it. Mr. Lawther noted to start the process Council must first accept the offer. He explained if Council accepts the \$200,000 bid and no one upsets the offer, then the property will sell for \$200,000.

Mr. Miller stated the City owns an asset that has been assigned a value of \$240,000. He added he would like to authorize the City Manager to have additional conversation with the bidder. He added it is an unsolicited bid, and it may not be the bidder's highest bid. He added he would like the City Manager to negotiate with the interested party to see if they are willing to increase their bid, and if so he is willing to entertain the offer and go through the required legal process.

Thereupon, Mr. Miller made a **motion** to authorize the City Manager to have a discussion with the interested party to see if the party can get closer to the current appraised value of the property. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Ms. Alexander and Blackwell voted AYE. (5-0)

Mayor Woodson clarified once Council accepts the offer, the property must be advertised for upset bid.

(b) Adopted Budget for FY 2015-2016

City Manager Lane Bailey presented Council with the adopted budget for FY 2015-2016 approved June 2015.

(c) Dragon Boat Race

City Manager Lane Bailey presented Council with t-shirts from the recent Dragon Boat Race. He noted the City's team had a great time and their times were slightly faster than the County's. He added Salisbury-Rowan Utilities Director Jim Behmer did a great job as team captain. He noted the name of the team was Gig-a-Boat City.

Councilmember Alexander thanked Gig-a-Boat City Team Member Shenoah Drakeford for helping the Wells Fargo Team.

MAYOR'S ANNOUNCEMENTS

(a) "School Tools" Campaign

Mayor Woodson announced the City of Salisbury is partnering with Communities in Schools to collect items for its annual "School Tools" Campaign. Last year Communities in Schools packed more than 500 bookbags for students, and with the community's help, it hopes to reach even more students this year. The types of supplies needed include: bookbags/backpacks, notebook paper, pencils, crayons, colored pencils, three-ring binders, and rulers. The "School Tools" Campaign kicks off August 3, 2015 and lasts through August 19, 2015. Supplies will be collected at the following locations:

- City Hall – 217 South Main Street
- Customer Service Center – 1415 South Martin Luther King, Jr. Avenue
- City Office Building – 132 North Main Street
- Fire Station 1 – 514 East Innes Street
- Police Department – 130 East Liberty Street
- Civic Center – 315 Martin Luther King, Jr. Avenue
- Hall Gym – 1400 West Bank Street
- City Park – 316 Lake Drive

Mayor Pro Tem Blackwell stated in the spirit of leading by example Council presented school supplies for the "School Tools" Campaign and challenged the community to follow suit.

(b) National Night Out

Mayor Woodson announced the Salisbury Police Department and community and neighborhood organizations will host National Night Out Tuesday, August 4, 2015 through the evening hours. Participating neighborhoods will receive a visit from Salisbury Police Department Command Staff and Patrol Officers assigned to their neighborhood. The Police Department's Community Relations Officers will visit many of the neighborhoods along with the Youth Crime Prevention Officer, Police Cadets, and McGruff the Crime Dog. Participating neighborhoods/locations include:

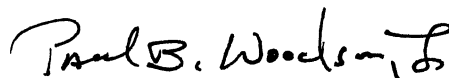
- Ardis Chapel Church
- Brooklyn South Square
- Chestnut Hills
- City Park
- Clancy Hills Apartments
- Fulton Heights
- Hidden Creek
- Moore's Chapel
- Park Avenue
- Lincoln Pool
- Pine Hills Apartments
- Rachel Lane
- Rolling Hills Apartments
- Rowan Terrace
- The Father's House of Prayer
- The Gables
- Salvation Army

(c) Movies in the Park

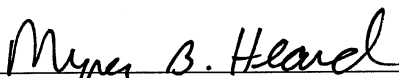
Mayor Woodson announced the Salisbury Parks and Recreation will host "Movies in the Park" at City Park, Friday, August 7, 2015. Pre-movie activities will begin at 8:00 p.m. The movie will begin at approximately 9:00 p.m. Bring a blanket or chair to watch the featured movie "Annie." This free event is sponsored by Fibrant and open to the public.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Blackwell seconded by Mr. Kennedy. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:06 p.m.



Paul B. Woodson, Jr., Mayor



Myra B. Heard, City Clerk